

COMMONWEALTH OF MASSACHUSETTS

At the Supreme Judicial Court holden at Boston within and for said Commonwealth on
the twenty-fourth day of June, in the year two thousand and nine:
present,

HON. MARGARET H. MARSHALL)	
)	
HON. RODERICK L. IRELAND)	
)	
HON. FRANCIS X. SPINA)	Justices
)	
HON. JUDITH A. COWIN)	
)	
HON. ROBERT J. CORDY)	
)	
HON. MARGOT BOTSFORD)	
)	
HON. RALPH D. GANTS)	

ORDERED: That the Massachusetts Rules of Criminal Procedure adopted by order dated
October 19, 1978, as amended, to take effect on July 1, 1979, are hereby amended as follows:

Rule 31:	By striking Rule 31 and inserting the new
	Rule 31 attached hereto.

The amendments accomplished by this order shall take effect on October 1 , 2009.

<u>MARGARET H. MARSHALL</u>)	
)	
)	
<u>RODERICK L. IRELAND</u>)	
)	
)	
<u>FRANCIS X. SPINA</u>)	
)	Justices
)	
<u>JUDITH A. COWIN</u>)	
)	
)	
<u>ROBERT J. CORDY</u>)	
)	
)	
<u>MARGOT BOTSFORD</u>)	
)	
)	
<u>RALPH D. GANTS</u>)	

Mass. R. Crim. P.

Rule 31. STAY OF EXECUTION; RELIEF PENDING REVIEW; AUTOMATIC EXPIRATION OF STAY.

(a) Imprisonment. If a sentence of imprisonment is imposed upon conviction of a crime, the entry of an appeal shall not stay the execution of the sentence unless the judge imposing it or, pursuant to Mass. R. App. P. 6, a single justice of the court that will hear the appeal, determines in the exercise of discretion that execution of said sentence shall be stayed pending the determination of the appeal. If execution of a sentence of imprisonment is stayed, the judge or justice may at that time make an order relative to the custody of the defendant or for admitting the defendant to bail.

(b) If the application for a stay of execution of sentence is allowed, the order allowing the stay may state the grounds upon which the stay may be revoked and, in any event, shall state that upon release by the appellate court of the rescript affirming the conviction, stay of execution automatically expires unless extended by the appellate court. Any defendant so released shall provide prompt written notice to the clerk of the trial court regarding the defendant's current address and promptly notify the clerk in writing of any change thereof. The clerk shall notify the appellate court that will hear the appeal that a stay of execution of sentence has been allowed. At any time after the stay expires, the Commonwealth may move in the trial court to execute the sentence. The court shall schedule a prompt hearing and issue notice thereof to the defendant unless the prosecutor requests, for good cause shown, that a warrant shall issue.

(c) Fine. If a reservation, filing, or entry of an appeal is made following a sentence to pay a fine or fine and costs, the sentence shall be stayed by the judge imposing it or by a single justice of the court that will hear the appeal if there is a diligent perfection of appeal.

(d) Probation or Suspended Sentence. An order placing a defendant on probation or suspending a sentence may be stayed if an appeal is taken.